



The Commonwealth of Massachusetts
Operational Services Division
Office of the Comptroller
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Martin J. Benison
Comptroller

April 6, 2001

Department Head
Title
Agency
Address
City, MA Zip

Comptroller Policy Memo #304
Operational Services Division Update #01-33

Dear Department Head,

Over the past eighteen months, the Office of the Comptroller (CTR) and the Operational Services Division (OSD) have been working with departments through the Quality Assurance Program. This has been a very positive experience as we have had the opportunity to spend time with Chief Fiscal Officers and their staff to better understand department needs for successful procurement and contracting. At the same time, the audit firm, Deloitte and Touche, was performing a risk assessment of the Commonwealth's central review of contracts which recommended delegation of 10% of the contract dollars. So in an effort to further balance efficiencies and appropriate levels of control, we are offering your department transactional encumbrance and contract filing delegation of \$100,000 and the incidental purchase threshold of \$5,000. Your department will also have the opportunity to participate in the Commonwealth's Credit Card program. We believe this provides greater efficiency for a large volume of low risk transactions and will allow our offices to focus on high risk transactions.

All departments are expected to request this increase in delegation transaction. In order to receive increased delegation and incidental purchase threshold, we ask each Department Head and Chief Fiscal Officer to sign and return the attached Delegation Transaction Certification Form to Elizabeth Kilcoyne, Deputy Comptroller, by April 30, 2001. Once the form has been received and the increased thresholds entered into MMARS, email notification will be sent to your department.

You will also find attached two additional documents: the Guidance for Delegation and the CTR/OSD Fiscal and Procurement Policy for Contracts and Grants/Level III. All Executive Departments are considered Level III, which means that you must comply with State Finance Law, M.G.L. Chapter 7 § 22 and 801 C.M.R. 21.00. Please review these requirements carefully and direct any questions to either the Office of the Comptroller or the Operational Services Division, as applicable.

Finally, OSD/CTR Quality Assurance staff will continue their review of your department's procurement and contracting activities with an increased emphasis on conducting on-site reviews. In addition to the six performance measures currently reviewed by the Quality Assurance team (RFR Review, Comm-PASS Closings, Incidental Purchase Review, Financial Review, Bill Paying Review and Audit Findings), future on-site reviews will evaluate a department's compliance with OSD Update #98-31 on closing out procurements, a comprehensive review of procurement files, and a review of your department's internal procurement and contracting procedures.

Additional detailed information on contract processing will be issued later this month. Should you have any questions regarding the increased delegation and incidental purchase thresholds, please contact Donna Roux (CTR) @ (617) 973-2316 or via email at donna.roux@osc.state.ma.us or Jeanne Campbell (OSD) @ (617) 720- 3148 or via email at jeanne.campbell@osd.state.ma.us. For more information on the Commonwealth's Credit Card Program, please contact Kathy Sheppard (CTR) @ (617) 973-2666 or via email at kathy.sheppard@osc.state.ma.us.

Thank you and congratulations.

Sincerely,

Martin J. Benison
Comptroller

Philmore Anderson
State Purchasing Agent

Attachments: Delegation Transaction Certification Form
Guidance for Delegation
CTR/OSD Fiscal and Procurement Policy for Contracts and Grants/Level III

Cc: Chief Fiscal Officer – via email
Legal Counsel – via email
MMARS Liaisons- via email

Department Guidance for Delegation

All decisions on the level of transaction pre-edit versus reliance on Department review through delegation reside with the Comptroller and Purchasing Agent, respectively. The Office of the Comptroller (CTR) and the Operational Services Division (OSD) have been working diligently to find the correct balance that allows for efficiency of operations and risk mitigation through oversight and control. These new levels of delegation are another step in this process. Delegation means that a department will have more authority and responsibility in processing financial transactions and filing contracts.

Increased authority includes the ability to:

1. Process encumbrance transactions up to a certain dollar limit and file contracts within the department;
2. Make incidental purchases up to a certain dollar limit without a structured procurement process or contract; and
3. Eliminate individual payments up to a certain dollar limit by using the Commonwealth's credit card.

Increased responsibility includes creating and maintaining a management environment that:

1. Provides the appropriate level of review and approval of encumbrance transactions processed within the departments.
2. Provides for the records management of the contract documents as the department now maintains the record copy of the contract which is a public document and must be made available upon request.
3. Provides a framework to achieve best value for incidental purchases without a structured procurement or contract.
4. Trusts and empowers employees to use Commonwealth credit cards for Commonwealth business, thus eliminating multiple processes for incidental transactions.

The department's Internal Control Plan as it relates to procurements, encumbrances, and payment transactions will be the foundation for successful delegation. The Quality Assurance Team will review these procedures when they visit.

With this increase in delegation up to 90% of contracts and amendments in a department may be delegated, therefore beginning with FY2002 departments will be the official record keeper for all contracts and amendments. Contract filing requirements and records management procedures will be detailed in subsequent guidance.

If a department has \$100,000 transaction delegation for some departments, then SC, LO and PD encumbrance transactions will be accepted in the accounting system with department security and these same transactions over \$100,000 will continue to be approved by CTR/OSD. Service modification (SM) encumbrance transactions must be managed differently by the department. If a contract was originally approved by the department under delegation, any SM up to \$100,000 can be approved by the department. If the contract was originally approved by the Comptroller's Office, all SMs must be approved by the Comptroller's Office. Any transaction greater than \$100,000 must be approved by the Comptroller's Office.

The requirements for procurement files do not change with delegation. Procurement files must be complete and available to the Quality Assurance Team. The Quality Assurance Team will meet with department Chief Fiscal Officers and staff on a schedule based upon the number of procurements conducted by departments, dollar volume of procurements, a department's performance on Quality Assurance reviews and other contract and procurement related factors.

These visits will be supplemented with Warehouse queries and analysis of department business. The team will follow up regularly as issues arise.

For procurement purposes, departments are legally classified into three levels: Level I-Exempt, Level II-Non-Executive, and Level III-Executive. Regardless of a department's procurement level all departments must comply with State Finance Law and Comptroller Policy. Level II Departments are subject to the requirements of Chapter 7, section 22 and Chapter 30, sections 51 and 52 which outline the procurement requirements for all goods, supplies, equipment and services needed by Commonwealth departments. Level II entities are required to conduct competitive procurements consistent with the above referenced state purchasing statutes and are encouraged, although not required, to conduct procurements using 801 CMR 21.00 and the Commonwealth's Procurement Policies and Procedures Handbook. All Level III departments are required to comply with [G.L. c. 30, s. 51](#); [G.L. c. 30, s. 52](#) which state that all services and commodities shall be purchased in accordance with [G.L. c. 7, s. 22](#) which outlines the procurement requirements for supplies, equipment and other property of Commonwealth departments. All Executive Departments are required to purchase goods and services in accordance with [801 CMR 21.00](#) and the [Commonwealth Procurement Policies and Procedures Handbook](#)

**OFFICE OF THE COMPTROLLER/OPERATIONAL SERVICES DIVISION
FISCAL AND PROCUREMENT POLICY FOR COMMONWEALTH CONTRACTS
AND GRANTS**

(Excluding Construction Contracts and Space Leases)

LEVEL III - Executive Branch, Executive Departments (Page 1 of 4)

COVERED DEPARTMENTS (BY [MMARS](#) DEPARTMENT CODE): AAB, ABC, ADD, AGR, ALA, ANF, ATB, BBR, BCA, BGT, BLC, BSB, CAD, CCJ, CDA, CHE, CHS, CJT, CME, CSC, DCP, DEM, DES, DFS, DIA, DMA, DMH, DMR, DOB, DOC, DOE, DOI, DOR, DOS, DPH, DPS, DPU, DPW, DSS, DYS, EHS, ELD, ENE, ENV, EOL, EPS, EQA, EQE, FWE, GIC, HCF, HLY, HRD, HSB, ITD, JLM, LIB, LLW, LRC, MAC, MCB, MCD, MDC, MED, MRB, MRC, OCD, OFC, OHA, ORI, OSC, OSD, PAR, PER, POL, REG, RGT, RMV, SCA, SEA, SOR, SRB, SRC, TRB, TRP, VET, WEL

STATE FINANCE LAW

1. *Payment Review And Certification; No Journal Entries (EXs) Without LEG Notice.* Comptroller examines all accounts and demands for payment for all Commonwealth accounts and funds unless specifically exempted. Comptroller requires affidavit from Department head, or designee, that articles furnished, services rendered or obligation incurred, as certified. Comptroller may not make journal entry (expenditure correction) between accounts if the account ultimately to be charged had insufficient funds at the time the amount was expended from the other account, unless prior notice is sent to HOU and SEN Ways and Means. See [G.L. c. 7A, §3](#), and [G.L. c. 29, §61](#).
2. *Contract Filing; Bill Paying Policy.* Requires that all departments file original or certified copies of contracts as directed by the Comptroller prior to payment. Comptroller shall establish a vendor payment schedule ([Bill Paying Policy](#)). See [G.L. c. 7A, §5](#).
3. *Late Penalty Interest.* Contractors may request interest if payments are not made in 45 days in accordance with Late Penalty Interest Regulations 815 CMR 4.00. See [G.L. c. 7A, §5A](#). Commercial contractors may invoice for interest if they were not paid within 45 days. See [G.L. c. 29, §20C](#). Departments paying bills late, are subject to late penalty interest in accordance with 815 CMR 4.00. Departments must reject unacceptable invoices within 15 days of receipt and give notice of defect to contractor. Late penalty interest must be paid from the same funds used for the expenditure, which was paid late. See [G.L. c. 29, §29C](#).
1. **Consultant Contracts.** Requires statements of persons having financial interests for all Consultant (HH subsidiary and N01 – N14) service contracts. See [G.L. c. 7A, §6](#). See also [G.L. c. 29, §29A](#) which requires:
 - a) **a Request for need for service: (SR) Service Request Form;**
 - b) **a scope and duration of work;**
 - c) **a written contract (Commonwealth Terms and Conditions and Commonwealth Standard Contract Form and Instructions);**
 - d) **a Resume;**
 - e) **a Disclosure of any other Commonwealth income;**
 - f) **a Disclosure of Financial Interest; and**
 - g) **that Consultants may not supervise state employees and may not substitute for state positions.**
2. *State Accounting System and Accounting Practices Implemented by Comptroller.* The Comptroller shall implement a state accounting system and issue instructions for the accounting practices to be used by all departments for all assets, liabilities, equity, debt, encumbrances, expenditures, revenues, and expenses of all Commonwealth funds, unless otherwise specified. See [G.L. c. 7A, §7](#).
3. *Uniform Accounting System for Commonwealth.* The Comptroller shall prescribe a uniform system of accounting to record the expenditure by subsidiary for supplies, materials and fixed assets. This shall govern all commonwealth funds and accounts unless specifically exempted by general or special law. See [G.L. c. 7A, §8](#).
4. *Comptroller Access To Records To Enable Proper Accounting.* The Comptroller shall account for all revenue, expenses, debts and obligations due to and from the Commonwealth and shall have access to the books and papers of all departments unless specifically exempted by general or special law. See [G.L. c. 7A, §9](#).

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STATE FINANCE LAW (Continued)

5. *Internal Control Guidelines.* The Comptroller shall publish internal control guidelines in consultation with SAO. See [G.L. c. 7A, §9A](#).
6. *Federal Grants.* This section describes the Federal Grant application and administration process. Specifically, Federal Grants are subject to annual appropriation and governed by CMIA and are assessed fringe benefits and indirect costs. See [G.L. c. 29, §6B](#).
7. *Insufficient Appropriations for Required Expenditures.* Departments must do everything legally allowed to manage within their appropriation. Departments must immediately notify ANF and HOU and SEN Ways and Means of the estimated amount of anticipated deficiency in any appropriation. In accordance with other sections of Chapter 29 departments may not incur a liability for the Commonwealth in excess of their appropriation or allotment. See [G.L. c. 29, §9E](#).
8. *Obligation Authorization Limited by Fiscal Year; Interim Budgets and Accounts Payable.* GAA appropriations shall be for ordinary maintenance for the fiscal year unless otherwise authorized. See [G.L. c.29, §12](#). This means goods and services to be paid for with current fiscal year appropriations must be received and accepted within the fiscal year (July 1-June 30) (see [G.L. c. 4, §7, Ninth](#)). Lawful obligations that do not exceed department's 1/12th allotment may be made between July 1 and passage of GAA if there is an interim budget. No commodities or services may be accepted for new fiscal year and no funds may be expended without an Interim Budget or GAA. See [G.L. c. 29, §12A](#). Accounts payable period to pay encumbrances for fiscal year ending on June 30th runs from July 1st through the end of August. FAD may extend the accounts payable period to pay encumbrances until September 15th with special request from department. Unencumbered balances revert on or before September 15th. See [G.L. c.29, §13](#).
9. *Payments Require Current Appropriation, CTR Certification and Approved Warrant.* No payments shall be made without current appropriation, Comptroller certification and approved Governor's warrant. See [G.L. c. 29, §18](#).
10. *Authorization to Contract; Approval of Expenditures.* Department must be authorized to enter into contracts in order to make payments against contracts. Departments must approve itemized expenditures. See [G.L. c. 29, §19](#).
11. *Department Approval of Expenditures With Sufficient Allotments.* Department head or designee must contract for expenditures and approve expenditures before Comptroller certification. Department head or designee may only approve payments with sufficient allotments. See [G.L. c. 29, §20](#).
12. *Ready Payment System.* The Comptroller shall provide a Ready Payment Program for providers of social, educational and rehabilitative services based on projected expenses or services pursuant to 815 CMR 3.00. See [G.L. c. 29, §23A](#).
13. *Obligations May Not Exceed Appropriation.* Departments may not incur a liability for the Commonwealth in excess of their appropriation or allotment. This means that a department cannot sign a contract or amendment or accept services or commodities in excess of current appropriations and allotments. Current fiscal year funds may not be used for prior fiscal year obligations. [G.L. c. 29, §26](#). Appropriations and allotments must be spent in accordance with prescribed subsidiary schedules. [G.L. c. 29, §27](#). "The Comptroller shall refuse to permit a disbursement or incurring of an obligation if funds, or allotments of funds, under an appropriation account or subsidiary account under an appropriation account, sufficient to cover such disbursement or obligation are not available and shall immediately give notice of such refusal to the department, office, commission, or institution proposing the expenditure". See [G.L. c. 29, §29](#).
14. *Violation of State Finance Law.* Any Department head or designee who knowingly violates state finance law shall be punished by fine of \$1,000 or imprisonment for one year, or both. See [G.L. c.29,§66](#).

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(Excluding Construction Contracts and Space Leases)

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STATE FINANCE LAW (Continued)

15. *Approval of Information Technology Purchases.* Department heads (except AGO, SAO, SEC and TRE) may not obligate funds for lease *or* purchase of data processing *or* reproduction equipment/systems without specifically identifying their intent in the spending plan approved by Fiscal Affairs Division, and/or ANF. See [G.L. c.29, §27B](#).
16. **Human and Social Service Contracts.** [G.L.c. 29, §29B](#) requires that for social, rehabilitative, health *or* special education service contracts with organizations, Departments must file:
 - a) **Request for need for service: (SR) Service Request Form;**
 - b) **No payments may be made prior to Secretariat approval of contract, unless there is an approval by ANF. (ANF delegated this approval to Secretariats and Department Heads pursuant to a memorandum dated April 18th, 1997, titled Delegation of Retroactive Start Date Approval to Departments);**
 - c) **Contractor/Provider may not supervise state employees;**
 - d) **Contracts must be used solely for provisions of human services and not other department need *or* purpose.**

PROCUREMENT LAW

[G.L. c. 30, s. 51](#); [G.L. c. 30, s. 52](#) which state that all services and commodities shall be purchased in accordance with [G.L. c. 7, s. 22](#) which outlines the procurement requirements for supplies, equipment and other property of Commonwealth departments. **All Executive Departments are required to purchase goods and services in accordance with [801 CMR 21.00](#) and the [Commonwealth Procurement Policies and Procedures Handbook](#)**

POLICY (Required)

1. Comptroller Regulations: 815 CMR 1.00-9.00
2. 801 CMR 21.00
3. 808 CMR 1.00
4. [Expenditure Classification Handbook](#)
5. [Comptroller Internal Control Guidelines](#)
6. [Comptroller Policy/MMARS Memos](#)
7. [Comptroller Fiscal Year Memos](#)
8. [Fiscal Year Closing and Opening Instructions](#)
9. [Fixed Asset Subsystem User Guide; Guidance on Non-GAPP Fixed Asset Management](#)
10. [Records Management Policy for Archiving Documents](#)
11. [Commonwealth Procurement Policies and Procedures Handbook](#)
12. [Tax Exempt Lease Purchase \(TELP\) Rules](#)
13. **OSD Updates, as applicable**

CONTRACT REQUIREMENTS (Required)

1. *Contract Filing.* All contracts must be filed as directed by the Comptroller prior to payment.
2. *Contract Signed/Dated by Authorized Signatories.* Contract must have live signature and date by an authorized signatory of the department and the contractor.
3. *Detailed Description of Performance.* Scope of performance detailed enough to identify appropriate classification of expenditure and proper state accounting system (MMARS) transaction type.
4. *Compensation Identified and Fully Encumbered.* Each contract must have a maximum obligation or specified rates and the full encumbrance for value of contract must be reflected in the state accounting system (MMARS).
5. *Dates in Contract and Encumbrance Match.* Contract effective start date and termination end date must be reflected in the encumbrance transaction in the state accounting system (MMARS).

Bolded items indicate requirements beyond Levels I and II.
Fiscal Policy Memorandum

4/6/01

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6. *Consultant Contract Statement of Financial Interest.* For consultant service contracts (Subsidiary HH and N01-N14) a statement of financial interest must be attached.
7. *Proper IRS/Vendor Registration.* The contractor must be registered with proper IRS form in the state accounting system.
8. *Timely Bill Payment.* Bills must be paid within the terms of the contract or, in absence of terms, within 30 days of receipt of the contractor invoice or receipt of goods or services whichever is later.
9. *Contract Employees Paid on Payroll System.* Individuals that meet IRS employee definition (IRS SS-8 Test) must be paid on the state payroll system.
10. *Required Encumbrance Certification.* All encumbrance authorizations in the state accounting system (MMARS) must include the following certification "The undersigned authorized signatory approving this document certifies that this document and any attachments are accurate and complete and comply with all applicable general and special laws and regulations".
11. Alternative contracts are acceptable for student interns

DELEGATION

Departments are expected to request transactional encumbrance and contract filing delegation for PDs, LOs, SCs, and SMs up to \$100,000 and \$5,000 for [Incidental Purchases](#). The head of the department and the Chief Fiscal Officer must sign the Delegation Transaction Certification Form to comply with all the applicable laws, regulations, policies, etc. within LEVEL III.